

Testimony Before the
Minnesota Senate Labor Committee

March 12, 2024 | Saint Paul, Minnesota

Jill Elaine Hasday
Distinguished McKnight University Professor and Centennial Professor of Law
University of Minnesota Law School

Pay Transparency Promotes Pay Equity

Chair McEwen and members of the Labor Committee:

Thank you for inviting me. My name is Jill Hasday. I am a Distinguished McKnight University Professor and the Centennial Professor of Law at the University of Minnesota Law School. I teach and write about sex discrimination and constitutional law, among other subjects. I am delighted to be here on equal pay day.

In my time today, I would like to make one simple, but fundamental point: Pay transparency promotes pay equity.

I will start with some historical background before describing the current state of the law and the need for legislative action.

Before 1963, it was perfectly legal for employers to pay women less. This type of discrimination was pervasive and out in the open. For example, help wanted ads would list one salary for male workers and a lower salary for women performing the same work.

Many Americans hoped that the federal Equal Pay Act of 1963 would end pay discrimination between men and women. But more than six decades later, an

enormous wage differential persists. The median annual earnings for women working full-time and year-round in 2022 were just 84.0% of the median annual earnings for full-time, year-round male workers, with black women earning just 69.1% of white men's earnings and Latinas earning just 57.5%.¹ A recent report estimates based on past trends that America's pay gap will not close for Asian women until 2046, for white women until 2066, for black women until 2144, and for Latinas until 2210.²

Minnesota's statistics are even worse. Over the past five years, women who work full-time and year-round in our state earned an average of 79 cents for every dollar a full-time, year-round male worker made. Thirty-one states have smaller gender wage gaps than we do.³

One important reason for these persistent wage gaps is that employers often keep their pay decisions secret. That pay secrecy makes it easier for employers to get away with paying different salaries for the same work. How is a job applicant supposed to know that the employer is offering her a lower salary than someone else if the employer can keep the wage or wage range for the position secret?

Federal law does not require employers to disclose a job's wage or wage range to applicants. I will repeat that because it is important: Federal law does not stop employers from concealing a job's wage or wage range.

¹ See INST. FOR WOMEN'S POL'Y RSCH., PUB. NO. C519, GENDER AND RACIAL WAGE GAPS marginally improve in 2022 but pay equity still decades away 4 tbl.1A (2023).

² See INST. FOR WOMEN'S POL'Y RSCH., QUICK FIG. NO. 105, THE GENDER PAY GAP, 1985 TO 2021—WITH FORECAST FOR ACHIEVING PAY EQUITY, BY RACE AND ETHNICITY 1 (2022).

³ See UNIV. OF MINN. CTR. ON WOMEN, GENDER & PUB. POL'Y, WHO EARNS? A FACT SHEET ON GENDER AND EMPLOYMENT IN MINNESOTA 1 (2023).

Keeping wages secret facilitates pay discrimination. But efforts to amend federal law to require employers to disclose wages or wage ranges have been unsuccessful.⁴

A growing number of states have responded to this problem by enacting their own legislation. An October 2023 survey found that eleven states had wage range transparency laws in place.⁵ These laws are aimed at promoting pay equity. Researchers found that a similar Canadian law requiring the public disclosure of university faculty salaries succeeded in shrinking the gender pay gap in those salaries.⁶

Minnesota should join this reform movement. Every Minnesotan deserves equal pay for equal work.

Thank you for your time.

⁴ See, e.g., H.R. 1599, 118th Cong. (2023).

⁵ See NAT'L WOMEN'S L. CTR., PROGRESS IN THE STATES FOR EQUAL PAY 3–5 (2023).

⁶ See Michael Baker et al., *Pay Transparency and the Gender Gap*, 15 AM. ECON. J.: APPLIED ECON. 157, 157–59 (2023).